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**Technology, Energy &  
Communications Committee**

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**HB 1508**

**Brief Description:** Providing an exemption from business and occupation tax for the resale of natural or manufactured gas by consumers.

**Sponsors:** Representatives Orcutt, Hunter, Blake, Takko, Condotta and Dunn; by request of Department of Revenue.

**Brief Summary of Bill**

- Exempts from the business and occupation tax certain revenues from the sale of natural or manufactured gas by consumers.
- Prohibits certain transfers of natural and manufactured gas from being considered a sale.

**Hearing Date:** 2/6/07

**Staff:** Scott Richards (786-7156).

**Background:**

**Business and Occupation (B&O) Tax**

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited in the state General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are many exemptions for specific types of business activities and certain deductions and credits permitted under the B&O tax statutes.

**B&O and Public Utility Tax Exemptions for the Resale of Electrical Energy**

Public utilities are exempt from paying the B&O tax for the sale of electrical energy for resale within or outside the state. State statute provides for public utility tax exemptions applied to

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revenue earned by any entity involved in the production, sale, or transfer of electrical energy for resale either within or outside the state, or for resale for consumption outside the state.

**B&O Tax for the Resale of Natural or Manufactured Gas**

Concerns have been raised about the application of the B&O tax to the resale of natural gas by businesses that are primarily consumers of natural gas but occasionally have to resell gas that they had planned to burn. Larger industrial natural gas users cannot predict with certainty how much gas they will need to burn as part of their operations. This creates situations in which the business had bought more gas than they can burn and they must resell the excess amount, incurring a B&O tax liability.

Additionally, sometimes natural gas consumers are required to buy and sell gas to balance pipeline capacity requirements, which may also trigger B&O taxes. In these situations, the consumer is not effectively in the business of selling gas, but incur B&O tax liability for these sales.

**Summary of Bill:**

The B&O exemption for public utilities and the resale of electric energy is amended to exempt amounts received from the sale of natural or manufactured gas by any person who sells an amount of natural gas that is less than 20 percent of the amount of natural gas that person consumes in the state in the same calendar year.

Two types of transfers of natural and manufactured gas not considered to be a sale: (1) the transfer of any natural or manufactured gas as a result of the acquisition of another business, through merger or otherwise; and (2) the transfer of any natural or manufactured gas to comply with federal regulatory requirements imposed on the transportation of natural or manufactured gas over a pipeline by a third-party manager of a person's pipeline transportation.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.